

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS CONCERNING COOPERATIVE AGREEMENTS BETWEEN THE STATE OF MONTANA AND INDIAN TRIBES REGARDING GAMBLING; REQUIRING THE STATE TO CONSIDER THE ECONOMIC AND POLICY IMPACTS WITHIN THE STATE IN NEGOTIATING GAMBLING AGREEMENTS; PROVIDING THAT A GAME AUTHORIZED TO BE OPERATED BY AN INDIAN TRIBE IS A LEGAL GAMBLING DEVICE AND A LEGAL GAMBLING ENTERPRISE ON THAT TRIBE'S RESERVATION; AMENDING SECTIONS 18-11-103, 23-5-112, AND 23-5-152, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Tribal gambling agreements.** (1) In negotiating a gambling agreement with a tribal government, the state shall consider the economic and policy impacts within the state.

(2) Any class III game authorized to be operated by an Indian tribe pursuant to an agreement authorized by 25 U.S.C. 2710 is a legal gambling device and a legal gambling enterprise on that tribe's reservation.

**Section 2.** Section 18-11-103, MCA, is amended to read:

**"18-11-103. Authorization to enter agreement -- general contents.** (1) Any one or more public agencies may enter into an agreement with any one or more tribal governments to:

(a) perform any administrative service, activity, or undertaking that a public agency or a tribal government entering into the contract is authorized by law to perform; and

(b) assess and collect or refund any tax or license or permit fee lawfully imposed by the state or a public agency and a tribal government and to share or refund the revenue from the assessment and collection.

(2) The department of justice may enter into an agreement with one or more tribal governments to specify the types of class III gaming that are authorized on a reservation as provided in 25 U.S.C. 2710.

~~(2)~~(3) The agreement must be authorized and approved by the governing body of each party to the agreement. If a state agency is a party to an agreement, the governor or the governor's designee is the governing

1 body.

2 ~~(3)~~(4) The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties  
3 to the agreement.

4 ~~(4)~~(5) (a) Prior to entering into an agreement on taxation with a tribal government, a public agency shall  
5 provide public notice and hold a public meeting on the reservation whose government is a party to the proposed  
6 agreement for the purpose of receiving comments from and providing written and other information to interested  
7 persons with respect to the proposed agreement.

8 (b) At least 14 days but not more than 30 days prior to the date scheduled for the public meeting, a notice  
9 of the proposed agreement and public meeting must be published in a newspaper of general circulation in the  
10 county or counties in which the reservation is located.

11 (c) At the time the notice of the meeting is published, a synopsis of the proposed agreement must be  
12 made available to interested persons."

13  
14 **Section 3.** Section 23-5-112, MCA, is amended to read:

15 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to parts  
16 1 through 8 of this chapter:

17 (1) "Applicant" means a person who has applied for a license or permit issued by the department  
18 pursuant to parts 1 through 8 of this chapter.

19 (2) "Application" means a written request for a license or permit issued by the department. The  
20 department shall adopt rules describing the forms and information required for issuance of a license.

21 (3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected  
22 by the department and that randomly selects the numbers.

23 (4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns  
24 of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above  
25 one of the columns. More than 75 numbers may not be used. One number must appear in each square, except  
26 for the center square, which may be considered a free play. Numbers are randomly drawn using authorized  
27 equipment until the game is won by the person or persons who first cover one or more previously designated  
28 arrangements of numbers on the bingo card.

29 (5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces  
30 the order of the numbers drawn in live bingo.

(6) "Card game table" or "table" means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(7) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(9) "Department" means the department of justice.

(10) "Distributor" means a person who:

(a) purchases or obtains from a licensed manufacturer, distributor, or route operator equipment of any kind for use in gambling activities; and

(b) sells the equipment to a licensed distributor, route operator, or operator.

(11) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property, or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise.

(b) The term does not mean conducting or participating in a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1.

(c) The term does not include social card games played solely for prizes of minimal value, defined as class I gaming by 25 U.S.C. 2703.

(12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(14) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property to be awarded by purchasing or agreeing to purchase goods or services.

(b) The term does not mean:

(i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;

1 (ii) a promotional game of chance; or

2 (iii) an amusement game regulated under Title 23, chapter 6.

3 (15) "Gross proceeds" means gross revenue received less prizes paid out.

4 (16) "House player" means a person participating in a card game who has a financial relationship with  
5 the operator, card room contractor, or dealer or who has received money or chips from the operator, card room  
6 contractor, or dealer to participate in a card game.

7 (17) (a) "Illegal gambling device" means a gambling device not specifically authorized by statute or by  
8 the rules of the department. The term includes:

9 ~~(a)~~(i) a ticket or card, by whatever name known, containing concealed numbers or symbols that may  
10 match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card,  
11 tip board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, or under part 5  
12 of this chapter or in a promotional game of chance approved by the department; and

13 ~~(b)~~(ii) an apparatus, implement, or device, by whatever name known, specifically designed to be used  
14 in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps  
15 table, or slot machine, except as provided in 23-5-153.

16 (b) The term does not include a device authorized pursuant to [section 1].

17 (18) (a) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically  
18 authorized by a statute or a rule of the department. The term includes:

19 ~~(a)~~(i) a card game, by whatever name known, involving any bank or fund from which a participant may  
20 win money or other consideration and that receives money or other consideration lost by the participant and  
21 includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

22 ~~(b)~~(ii) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll  
23 of one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;

24 ~~(c)~~(iii) sports betting, by whatever name known, in which a person places a wager on the outcome of an  
25 athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities  
26 authorized in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

27 ~~(d)~~(iv) credit gambling; and

28 ~~(e)~~(v) internet gambling.

29 (b) The term does not include an enterprise authorized pursuant to [section 1].

30 (19) (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of any

1 legal or illegal gambling enterprise through the use of communications technology that allows a person using  
2 money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards, or any other  
3 instrumentality to transmit to a computer information to assist in the placing of a bet or wager and corresponding  
4 information related to the display of the game, game outcomes, or other similar information.

5 (b) The term does not include the operation of a simulcast facility or advance deposit wagering with a  
6 licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, or the state lottery provided for  
7 in Title 23, chapter 7. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes  
8 and with administrative regulations of the national Indian gaming commission, the term does not include class  
9 II gaming or class III gaming as defined by 25 U.S.C. 2703.

10 (20) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows  
11 and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall  
12 select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

13 (21) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces  
14 the order of the numbers drawn in live keno.

15 (22) "License" means a license for an operator, dealer, card room contractor, manufacturer of devices  
16 not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other  
17 manufacturer, distributor, or route operator that is issued to a person by the department.

18 (23) "Licensee" means a person who has received a license from the department.

19 (24) "Live card game" or "card game" means a card game that is played in public between persons on  
20 the premises of a licensed gambling operator or in a senior citizen center.

21 (25) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property  
22 among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property  
23 or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that  
24 it is to be distributed or disposed of by lot or chance.

25 (b) The term does not mean lotteries authorized under Title 23, chapter 7.

26 (26) "Manufacturer" means a person who:

27 (a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment  
28 of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route  
29 operator, or operator; or

30 (b) possesses gambling devices or components of gambling devices for the purpose of testing them.

(27) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity.

(28) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through 8 of this chapter.

(29) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

(30) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(31) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(32) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the department that was manufactured or intended for use for purposes other than gambling.

(33) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(34) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(35) "Route operator" means a person who:

(a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind for use

1 in a gambling activity;

2 (b) leases the equipment to a licensed operator for use by the public; and

3 (c) may sell to a licensed operator equipment that had previously been authorized to be operated on a  
4 premises.

5 (36) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that  
6 provides services to senior citizens in the form of daytime or evening educational or recreational activities and  
7 does not provide living accommodations to senior citizens. Services qualifying under this definition must be  
8 recognized in the state plan on aging adopted by the department of public health and human services.

9 (37) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance,  
10 or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any  
11 valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the  
12 skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or  
13 operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether  
14 the payoff is made automatically from the machine or in any other manner.

15 (b) This definition does not apply to video gambling machines authorized under part 6 of this chapter.

16 (38) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and  
17 the rules of the department."  
18

19 **Section 4.** Section 23-5-152, MCA, is amended to read:

20 **"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise**  
21 **prohibited -- exceptions.** (1) Except as provided in section 1, 23-5-153, and subsections (2) through (6) of this  
22 section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

23 (a) have in the person's possession or under the person's control or permit to be placed, maintained,  
24 or kept in any room, space, enclosure, or building owned, leased, or occupied by or under the person's  
25 management or control an illegal gambling device; or

26 (b) operate an illegal gambling enterprise.

27 (2) Subsection (1) does not apply to a public officer or to a person coming into possession of an illegal  
28 gambling device in or by reason of the performance of an official duty and holding it to be disposed of according  
29 to law.

30 (3) (a) The department may adopt rules to license persons to manufacture gambling devices that are

1 not legal for public play in the state.

2 (b) A person may not manufacture an illegal gambling device without having obtained a license from the  
3 department. The department may charge an administrative fee for the license that is commensurate with the cost  
4 of issuing the license.

5 (4) (a) A person licensed under subsection (3) may conduct only those activities authorized under this  
6 subsection (4).

7 (b) A licensee may bring an illegal gambling device, including an illegal video gambling machine, into  
8 the state if:

9 (i) the illegal gambling device contains a component that will be used by the licensee to manufacture an  
10 illegal gambling device for export from the state; or

11 (ii) the illegal gambling device will be reconditioned, refurbished, repaired, tested, or otherwise  
12 substantially modified in preparation for export from the state; and

13 (iii) the illegal gambling device will be exported from the state; and

14 (iv) the licensee has notified the department and received authorization from the department to bring the  
15 illegal gambling device into the state. The licensee is subject to reporting requirements provided for in rules  
16 adopted under subsection (3)(a).

17 (c) A licensee may also bring an illegal video gambling machine into the state if:

18 (i) the illegal video gambling machine will be reconditioned, refurbished, repaired, or otherwise  
19 substantially modified for conversion to an authorized video gambling machine; and

20 (ii) the licensee has notified the department and has received authorization from the department to bring  
21 the illegal video gambling machine into the state. The licensee is subject to reporting requirements provided for  
22 in rules adopted under subsection (3)(a).

23 (5) An illegal gambling device may be possessed or located for display purposes only and not for  
24 operation:

25 (a) in a public or private museum; or

26 (b) in any other public place if the device has been made permanently inoperable for purposes of  
27 conducting a gambling activity.

28 (6) An antique illegal gambling device may be possessed by a licensed retail business establishment  
29 for purposes of resale and not for operation as provided in 23-5-153."

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**NEW SECTION.** **Section 5. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 18, chapter 11, part 1, and the provisions of Title 18, chapter 11, part 1, apply to [section 1].

NEW SECTION. **Section 6. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**NEW SECTION.** **Section 7. Effective date.** [This act] is effective on passage and approval.

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